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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/659,997 | 09/11/2003 | Carl E. Linton | CVAC-001/00US<br>313579-2010 | 8998 |

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| EXAMINER | |
|---|---|
| FLETCHER, JERRY-DARYL | |
| **ART UNIT** | **PAPER NUMBER** |
| 3715 | |

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| 12/07/2010 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/659,997 | LINTON, CARL E. | |
| | Examiner | Art Unit | |
| | JERRY-DARYL FLETCHER | 3715 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *07 October 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-39* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-39* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *11 September 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *09/09/2010*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/07/2010 has been entered.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1 and 23-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Applicant's Admitted Prior Art ("AAPA" as evidenced by "Introducing the CVAC Process", Item #5 of IDS filed 12/10/2003; Applicant's Remarks, 03/03/2008; Reid, W., "Device Enhances Performances for Local Athletes," Item #2 of IDS filed 04/08/2006; "Introducing CVAC", Item #4 of IDS filed 12/10/2003) in view of Sternberg (US Patent No: 5,899,846).

Re Claim 1: The AAPA discloses a pressure vessel capable of being opened to receive a user and closed to create a hermetic seal ("Introducing the CVAC Process:

What is CVAC", Item #5 of IDS filed 12/10/2003), the pressure vessel comprising an on-board interface capable of enabling a user to control one or more functions of the pressure vessel unit, a pressure transducer capable of monitoring air pressure inside the pressure vessel, a blower capable of removing air from the pressure vessel, and a proportioning valve capable of controlling the amount of air allowed to enter into the pressure vessel (Applicant's Remarks, 03/03/2008, Page 12).

Note that while the references do not specifically include the term "hermetic seal," it is inherent of a pressure vessel that controls pressure to include a hermetic seal; without a hermetic seal, air pressure cannot be controlled.

However, the AAPA does not specifically disclose a user sensor capable of measuring one or more parameters of a user's body condition.

Sternberg discloses a user sensor capable of measuring one or more parameters of a user's body condition (col. 4, ll. 44-55).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a user sensor capable of measuring one or more parameters of a user's body condition, thereby providing an operator or operating device with updated details of the user's body condition.

4. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art and Sternberg as applied to claim 1 above, and further in view of Butler (US Patent Application Publication 2004/0261796).

Re Claim 6: The AAPA and Sternberg do not specifically disclose an external controller placed in electrical communication with the system to initiate a session.

Butler discloses electronic controls and external controller placed in electrical communication with the system to initiate sessions (Fig. 7; Paragraphs 114-122).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include an external controller placed in electrical communication with the system to initiate sessions, thereby providing an operator control of the system.

Re Claim 7-9: The AAPA does not specifically disclose the user sensor placed in electrical communication with the external controller, the external controller being capable of monitoring readings from the user sensor to determine whether a measured parameter of a user's body condition is at a level sufficient enough to warrant a selection or modification of a predetermined program regulating cyclic variations in altitude conditioning.

Sternberg discloses the user sensor placed in electrical communication with the external controller for selection and modification of programs based on measured parameters (col. 4, ll. 32-55).

It would have been obvious to one of ordinary skill in the art to have the user sensor placed in electrical communication with the external controller, the external controller being capable of monitoring readings from the user sensor to determine whether a measured parameter of a user's body condition is at a level sufficient enough to warrant a modification of a predetermined program regulating cyclic variations in

altitude conditioning, thereby providing conditioning that takes into account user safety and desired goals.

5. Claims 10, 15-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA and Sternberg as applied to claim 1 above, and further in view of Butler and Cook (US Patent No: 5,727,950).

Re Claims 10, 21-23, 25: Note that claims 10, 21-23, 25 include the pressure vessel of claim 1, and additionally a kiosk controller and a master controller (claim 10) that are separately located (claim 21) and wherein the master controller is capable of storing information entered in the kiosk controller or onboard interface (claim 22) and further wherein the master controller makes information available to multiple kiosk controllers (claim 23), and downloading data from the kiosk controller to the master controller, wherein the data relates to the user and was previously entered and stored on the kiosk controller (claim 25).

Butler discloses that the chamber is computer controlled (Paragraphs 115).

Cook discloses that it is known in the art of computing to use a distributed computing system with local and remote information storage, wherein information stored at a remote server is accessible to a plurality of computing devices, and further teaches the downloading an aggregation of material onto a centralized repository (col. 4, ll. 34-45; col. 17, ll. 16-39).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a kiosk controller and a master controller comprising first and second software programs, and information processing systems for executing the programs, such that the controllers are able to control the pressure vessel system with a series of programs adaptive to various situations and parameters. By supplementing the modified invention with the distributed computing environment, as taught by Cook, it would have enabled the invention to benefit from lesser redundancy in entering information, and greater security of remote data, and represents a combination of known elements to yield a predictable result.

Re Claims 15-20: Note that claims 15-20, dependent on claim 10, include limitations also found in claims 6-9, dependent on claim 1, except that claims 15-20 relate to the kiosk controller (instead of an "external controller"). Also with regard to claims 19 and 20, it is claimed that the information processing system, instead of the external controller, is capable of performing the tasks as described in claims 7-9. It is claimed in claim 10 that the information processing system is included in the kiosk controller. Claims 6-9 have each been discussed above. It has been discussed in regard to claim 10 that the kiosk controller is coupled to the sensors and measurement devices and controls the operation of the pressure vessel.

Re Claim 24: Note that claim 24 includes limitations of making available to a user the system of claim 10, and allowing the user to pay for a session in the system via an entry of payment information relating to the user into the kiosk controller.

The AAPA inherently discloses making a system for cyclic variations in altitude conditioning available to a user.

However, it is not specifically disclosed how the user of the system pays for services.

Applicant agrees that it is well known in the art to provide payment methods to a system through a controlling kiosk or on the system through bill receptors, change receptors, magnetic strips, smart cards, radio frequency, keypad entry of identification, keypad entry of credit information, etc.

Re Claim 26: The limitations of claim 26 have been discussed with regard to claim 21.

Re Claims 27-28: The limitations of claims 27-28 have been discussed with regard to claim 23 above.

Re Claim 29: The AAPA discloses requiring a user to successfully complete a set up program in order to ensure that the user is capable of safely completing a regular session of cyclic variations in altitude conditioning ("Introducing the CVAC Process: How to Get Started", Item #5 of IDS filed 12/10/2003).

Re Claim 30: The AAPA does not specifically disclose accessing data related to a user from the kiosk controller or master controller in order to determine a suitable program for the user based upon the user's history of use.

Cook discloses accessing data related to a user to determine a suitable program for the user based on the user's history of use (col. 17, ll. 40-48).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to access data related to a user's history to determine a suitable program for the user, thereby determining and providing the most effective program adapted specifically for the user.

Re Claims 31-33: The limitations of claims 31-33 have been discussed above with regard to claims 3-5.

Re Claims 34-35: The limitation of enabling the user to successfully complete a set-up session in a pressure vessel has been discussed with regard to claim 29. The limitation of enabling the user to undergo rapid transitions between simulated altitude in the pressure vessel according to cycles determined by a program are disclosed by the AAPA (CVAC). The limitation of using a user sensor to measure a parameter of the user's body condition and selecting or altering the program based on the measured parameter has been discussed with regard to at least claims 7-9.

The AAPA additionally discloses that the cyclic variation in altitude conditioning program is tailored to an individual's body type ("Introducing CVAC: What is CVAC", Item #4 of IDS filed 12/10/2003).

However, the AAPA does not specifically disclose body type categories and selecting a program based on the category.

Cook discloses that programs are designed based on the user's data (col. 17, ll. 40-48).

It would have been obvious to one of ordinary skill in the art at the time the invention to have supplemented the invention by using user data (profiles) to create specific treatments based on the user's data in order to yield the predictable result of ensuring that the treatments were commensurate with the individual users.

Re Claims 36-39: The limitations of providing payment on the on-board interface or kiosk have been discussed above with regard to claim 24.

6. Claims 2-5 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the AAPA in view of, Sternberg, Butler and Cook, as applied to claims 1 and 6-10 above, and further in view of Galerne (US Patent No. 4,227,524).

Re Claims 2-5: Claims 2-5 include an on-board interface and user sensor performing the limitations of claims 6-9, already discussed above, wherein the on-board interface of claims 2-5 essentially replace the external controller of claims 6-9.

The AAPA discloses an on-board interface (Applicant's Remarks, 03/03/2008, Page 12).

However, the AAPA does not specifically disclose the on-board interface selecting and altering the cyclic variations in altitude conditioning program.

Galerne discloses a pressure chamber system wherein controls for regulating the system may be placed inside and outside the vessel (Col. 16, Lines 36-42).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the on-board interface be capable of monitoring readings from the user sensor to determine whether a measured parameter of a user's body condition is at a level sufficient enough to warrant a modification of a predetermined program regulating cyclic variations in altitude conditioning, thereby achieving the predictable result of providing a user of the system control of the system while using the system.

Re Claims 11-14: Note that claims 11-14, dependent on claim 10, include limitations found in claims 2-5, dependent on claim 1, each of which have been discussed above.

***Response to Arguments***

7. Applicant's arguments, see last paragraph on page 2 that is continued onto page 3, filed 10/07/2010, with respect to the rejection(s) of claim(s) 1-39 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is

made in view of Sternberg and Cook. Specifically, Sternberg discloses the use of a user sensor in a hyperbaric chamber, and Cook discloses a distributed computing system wherein user information, or profiles, is used to provide treatments (materials) to the user. Though, on its face, Cook appears to be non-analogous art, it is noted that Cook is related to the problem at hand, which is the use of user information in a distributed computing environment. Though this is not directly related to a hyperbaric chamber, it is directly related to the way in which the information gathered by the chamber is being distributed and used, and therefore has not been considered to be non-analogous art.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JERRY-DARYL FLETCHER whose telephone number is (571)270-5054. The examiner can normally be reached on Monday to Friday 9:00 a.m. to 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kathleen Mosser/
Primary Examiner, Art Unit 3715

/J.D.F./
Examiner, Art Unit 3715